

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

JOSHUA BROOKS

*Plaintiff,*

v.

SERTA SIMMONS BEDDING, LLC

*Defendant.*

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CIVIL ACTION

DOCKET NO. 4:22-CV-01203-JAR

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**DEFENDANT’S MOTION TO DISMISS**  
**PLAINTIFF’S FIRST AMENDED COMPLAINT**  
**PURSUANT TO FED. R. CIV. P. 12(b)(6)**

Defendant, Serta Simmons Bedding, LLC (“SSB” or “Defendant”), by and through its undersigned counsel, Elarbee, Thompson, Sapp & Wilson, LLP and McMahon Berger, P.C., and pursuant to Federal Rule of Civil Procedure 12(b)(6), hereby moves this Honorable Court for an Order dismissing Plaintiff’s First Amended Complaint with prejudice for failure to state a claim upon which relief can be granted.

On December 2, 2022, SSB initially filed a Motion to Dismiss Plaintiff’s First Amended Complaint. [ECF No. 14.] On January 26, 2023, this Court issued an Order staying the case during the pendency of Defendant’s bankruptcy proceeding. [ECF No. 20.] On September 18, 2024, this Court granted Defendant’s Motion to Consolidate Case No. 4:24-CV-00097 into this case. [ECF No. 29.] In that same Order, the Court denied without prejudice Defendant’s Motion to Dismiss, stating that Defendant may refile its motion once the stay is lifted. *Id.* On December 17, 2024, this Court granted Plaintiff’s Motion to Lift Stay and provided Defendant twenty-one (21) days to update its Motion to Dismiss. [ECF No. 38.]

In support of this Motion, SSB concurrently files its Memorandum of Law in Support of its Motion to Dismiss Plaintiff's First Amended Complaint in accordance with Rule 4.01 of the Local Rules of the United States District Court for the Eastern District of Missouri.

In updating its Memorandum of Law, Defendant has made no substantive changes to the initial Memorandum of Law in Support of its Motion to Dismiss Plaintiff's First Amended Complaint it filed on December 2, 2022. Defendant did remove references to the former standard for demonstrating an undue burden in a religious discrimination accommodation case that was updated by the Supreme Court in Groff v. DeJoy, 600 U.S. 447 (2023). However, Defendant made no argument based on undue burden and had simply cited that standard in explaining the burden-shifting framework in a failure to accommodate claim.

For the reasons set forth in that Memorandum of Law, SSB respectfully requests that this Honorable Court dismiss Plaintiff's First Amended Complaint with prejudice pursuant to Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim upon which relief can be granted.

Respectfully submitted this 7th day of January 2025.

**ELARBEE THOMPSON SAPP & WILSON LLP**

By: /s/ Timothy J. Holdsworth  
Timothy J. Holdsworth # 730986 GA  
*Admitted Pro Hac Vice*  
Shannon L. Smith # 487478 GA  
*Admitted Pro Hac Vice*  
800 International Tower  
229 Peachtree Street, N.E.  
Atlanta, Georgia 30303  
(404) 659-6700  
(404) 222-9718  
[holdsworth@elarbeethompson.com](mailto:holdsworth@elarbeethompson.com)  
[smith@elarbeethompson.com](mailto:smith@elarbeethompson.com)

**MCMAHON BERGER, P.C.**

/s/ Kevin J. Lorenz  
Kevin J. Lorenz, #31707 MO  
2730 North Ballas Rd., Suite 200  
P.O. Box 31901  
St. Louis, MO 63131-3039  
(314) 567-7350  
(314) 567-5968 (fax)  
[lorenz@mcmahonberger.com](mailto:lorenz@mcmahonberger.com)

*Counsel for Defendant*

**CERTIFICATE OF SERVICE**

I certify that on January 7, 2025, a copy of the foregoing was filed and served via the Court's electronic filing system upon the following:

S. Cody Reinberg  
HKM Employment Attorneys LLP  
7382 Pershing Ave, Suite 1W  
St. Louis, MO 63130  
(314) 391-9558  
[creinberg@hkm.com](mailto:creinberg@hkm.com)

/s/ Timothy J. Holdsworth